

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

337E0252

SENATE ENGROSSED NO. **HB 1144** - 02/28/2001

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Kooistra, Garnos, and McCoy and Senator Staggers

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to child custody.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That chapter 25-5 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 Any person entitled to custody or visitation of a child shall give notice of any proposed
6 relocation of the residence of the child to another state or a distance greater than seventy miles.

7 The notice shall be in writing by certified mail, return receipt requested, to any party that has
8 custody or visitation rights. Absent exigent circumstances as determined by a court with
9 jurisdiction, written notice shall be provided at least sixty days before the proposed relocation.

10 The notice of the proposed relocation shall include the following information: the city and state
11 to which the relocation is proposed, date of the intended move, reasons for moving, and a
12 proposed visitation schedule.

13 The residence of the child may be relocated sixty days after providing notice, as required by
14 this section, unless a party entitled to custody or visitation files a motion seeking an order to
15 prevent the relocation within thirty days after receipt of such notice. An affidavit setting forth

1 the specific factual basis for prohibiting the relocation shall be attached to the motion. The
2 person seeking the relocation shall respond to the motion within fourteen days, unless the court
3 extends the response time for good cause, and provide a counter affidavit setting forth the facts
4 in support of the relocation and the proposed revised parenting plan for the child.

5 If relocation is permitted, the court may order contact with the nonrelocating party including
6 custody or visitation and telephone access sufficient to assure that the child has frequent,
7 continuing, and meaningful contact with the nonrelocating party unless the child's best interest
8 warrants otherwise.